

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: § § CASE # 18-31189
HASSELL 2012 JOINT VENTURE § § CHAPTER 7
ALLEGED DEBTOR § §

HASSELL CONSTRUCTION COMPANY INC'S MOTION TO COMPEL

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HON. MARVIN ISGUR, UNITED STATES BANKRUPTCY JUDGE:

NOW COMES, HASSELL CONSTRUCTION COMPANY, INC., ("HCCI"), and files this motion to compel and shows as follows:

1. On August 13, 2018, the non-petitioning partners of the Hassell 2012 Joint Venture, and Royce Hassell, served their responses and answers to a document request, ("discovery responses"). The document request is attached as **Exhibit A**, and the discovery responses are attached as an exhibit to Exhibit B.

2. On August 16, 2018, HCCI, in an effort to confer, sent an email to Leonard Simon, outlining several areas of concern regarding the discovery responses. *See Exhibit B*, attached hereto.

3. Although some of the concerns have been addressed and resolved, two items remain in dispute.

4. First, the responding parties have not produced the document(s) requested in item No. 2 of the document request, (as discussed in item No. 1 of the email in Exhibit B). The request is clear, the document exists, and no objection to its production was asserted. There is no excuse for its non-production.

5. Second, certain documents were improperly withheld. The discovery responses assert the attorney client privilege, as the only privilege supporting the withholding of various documents. The discovery responses also purport to include a privilege log. HCCI contends that the purported privilege log is not in compliance with the requirements of rule 26(b)(5)(A) of the FED. R. CIV. P., and therefore the only asserted privilege, has been waived.

6. Therefore, HCCI requests that this Court order: (a) the production of the document referenced in request for documents No. 2; (b) declare that the attorney-client privilege has not been properly asserted and therefore waived; (c) that documents protected by the trial preparation privilege are not protected; and (d) that all documents for which a privilege has been waived, and/or not asserted, must be immediately produced.

WHEREFORE, PREMISES CONSIDERED, HCCI seeks the relief specifically requested herein, and such other and further relief to which it may show itself justly entitled.

Respectfully submitted,

RENTEA & ASSOCIATES

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ATTORNEYS FOR HCCI

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies as follows: I corresponded with Leonard Simon on the issues raised in this motion, via my email attached as Exhibit B. I invited Mr. Simon to call me, so that we could discuss the matters raised in my email. He has not done so. I don't believe that any further efforts would be successful in resolving the issues raised herein, and the discovery disputes require this Court's consideration and ruling.

/s/ Bogdan Rentea
Bogdan Rentea

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served by CM/ECF on September 14, 2018, upon the below-named parties.

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/s/ Bogdan Rentea
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